

**UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS**

No. 16-4134

BO,

APPELLANT,

v.

ROBERT L. WILKIE,  
SECRETARY OF VETERANS AFFAIRS,

APPELLEE.

Before BARTLEY, *Chief Judge*, ALLEN, *Judge*, and SCHOELEN, *Senior Judge*.<sup>1</sup>

**ORDER**

*Note: Pursuant to U.S. Vet. App. R. 30(a),  
this action may not be cited as precedent.*

Currently pending before the Court is appellant's unopposed February 13, 2020, motion to unseal this case and recaption it with his actual name. For the reasons that follow, the Court will grant the motion.

On November 22, 2016, the appellant filed an unopposed motion to seal this case because, at the time, he was employed as a counterterrorism agent for the Federal Bureau of Investigation (FBI) and he believed that public disclosure of his personal information presented a safety risk to himself and his family. The Court granted that motion on December 20, 2016, sealing the case and recaptioning it with the identifier "BO."

On August 15, 2019, the Court issued a precedential decision in this appeal. *See BO v. Wilkie*, 31 Vet.App. 321 (2019). On October 7, 2019, the Secretary filed opposed motions (1) for panel reconsideration or, in the alternative, en banc review of the decision; and (2) to stay the precedential effect of the decision pending an appeal to the U.S. Court of Appeals for the Federal Circuit. Three days later, the appellant filed an unopposed motion to partially unseal the case since the date of the decision, arguing that, although the interests that initially justified sealing the case remained unchanged, the public's interest in the Court's decision and the subsequent motions filed by the Secretary counseled in favor of making all post-decisional filings and rulings available to the public on the "BO" docket. The Court agreed and, on October 30, 2019, issued an order granting the appellant's motion to unseal all post-decisional filings and rulings.

On February 13, 2020, the appellant filed the instant unopposed motion to unseal this case and recaption it with his actual name. He asserts that the circumstances that previously

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<sup>1</sup> Judge Schoelen is a Senior Judge acting in recall status. *In re: Recall of Retired Judge*, U.S. VET. APP. MISC. ORDER 04-20 (Jan. 2, 2020).

justified sealing the case are no longer present because he has taken a different position with the FBI and all counterterrorism investigations that he was involved in have been completed or transferred to other FBI personnel. Appellant's Motion to Unseal at 3. Given this assertion and the presumption in favor of public access to Court records, *see Stam v. Derwinski*, 1 Vet.App. 317, 319 (1991); *see also* 38 U.S.C. § 7268(a) (except as otherwise provided, "all decisions of the Court of Appeals for Veterans Claims and all briefs, motions, documents, and exhibits received by the Court . . . shall be public records open to the inspection of the public"), the Court will grant the appellant's motion, subject to applicable Court rules. *See Yi v. Principi*, 15 Vet.App. 265, 267-68 (2001) (granting petitioner's motion to unseal and recaption a previously sealed case where the petitioner "no longer wishe[d] to have his record sealed").

Upon consideration of the foregoing, it is

ORDERED that the appellant's February 13, 2020, motion is granted and the case is unsealed. It is further

ORDERED that the Clerk of the Court unlock all electronically locked documents except the Notice of Appeal, *see* U.S. VET. APP. E-R. 4(b); the Board of Veterans' Appeals Decision Transmittal, *see* U.S. VET. APP. R. 4(c)(2); the appellant's fee agreement, *see* U.S. VET. APP. R. 46(b)(1)(A); and the Record of Proceedings, *see* U.S. VET. APP. E-R. 4(e). It is further

ORDERED that the Clerk of the Court recaption the case with the appellant's actual name.

DATED: February 27, 2020

PER CURIAM.

Copies to:

David J. DePippo, Esq.

VA General Counsel (027)